

REMARKS:

Reconsideration of the present application, as amended, is respectfully requested.

The pending claims in the present application are claims 1-6 plus newly added claims 36-41. Claims 7-35 have been withdrawn.

In the Official Action, the Examiner objected to Claim 3 because the employment of parentheses are informal and in response, the Applicant has deleted the terms “(Sweet Almond), (Apricot), (Safflower) and (Sunflower)” in Claim 3.

In the Official Action dated June 30, 2003, the Examiner also rejected claims 1-6 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. According to the Examiner, the term “hydrolyzed” in Claim 1 is used to mean “water extracted from the product”, while the accepted meaning is “a product decomposed in the presence of water”. Applicant concurs with the Examiner and in response, the term in the specifications (specifically page 2, lines 9-11) has been amended to better clarify the invention.

In the Official Action, the Examiner also rejected Claims 1-6 under 35 U.S.C. 102(b) as being anticipated by Lavenir Healfast Cream. In response, the Applicant is submitting a Declaration under 37 C.F.R. Section 1.132 wherein the inventor and President and CEO of L’Avenir, LLC explains the history of the Healfast Product. Although it is accurate that the original Healfast Product was used in commerce since 1995, the formulation sold under the Healfast trademark between 1995 and 2002 is different from the formulation that is covered by this patent application and its related applications, specifically the whole egg technology. The labels of the Healfast Cream sold between 1995-2002 are enclosed herewith. In addition, the Healfast formulation covered by the claims of this pending application was not commercialized until the March 2002 International Beauty Show in New York City (a sample of the box for the March 2002 version of the product is also enclosed). This pending application has a filing date of January 8, 2002 and its related provisional application (Serial No. 60/298,874) has a filing date of June 18, 2001. In view of the above, the Healfast Cream does not anticipate Claims 1-6 of the present application.

In view of the above, it is respectfully submitted that the Examiner's rejections under 35 U.S.C. 102(b) in view of Healfast Cream have been overcome and should be removed.

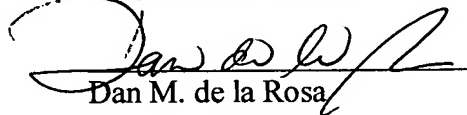
Newly added claims 36-41 are the product-by-process and method claims of pending claims 1-3. The newly added claims do not contain any new subject matter and are not anticipated or rendered obvious by any of the references cited by the Examiner in this Official Action. In view of the above, newly added claims 36-41 should also be allowable.

In view of the actions taken and arguments presented, it is respectfully submitted that the present invention is now in condition for allowance.

An early and favorable action on the merits is earnestly solicited.

Dated: November 24, 2003

Respectfully submitted,



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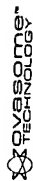
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Instructions: Massage into skin every two hours or as often as possible.

Ingredients: Water, Glycerin, Aloe Barbadosis Leaf Juice, Prunus Amygdalus Dulcis (Sweet Almond) Oil, Cetyl Alcohol, Ceteareth-20, Cetyl Alcohol, Stearic Acid, Glyceryl Stearate, PEG-100 Stearate, Triethanolamine, Hydrolyzed Whole Egg, Methiparaben, Sorbitan Stearate, Salicylic Acid, Phenoxethanol, Phospholipids, Retinyl Palmitate, Tocopheryl Acetate, Ascorbyl Palmitate, Propylparaben, Trisodium EDTA, Red No.4, Yellow No. 5

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